

The Honorable Jeff Pelowski, Mayor of Roseau, MN  
The Honorable Renae Smith, Breckenridge City Administrator, Breckenridge, MN  
The Honorable Dan Mahli, Acting Moorhead City Manager, Moorhead, MN  
The Honorable Bob Marvin, Mayor of Warroad, MN  
Via email c/o [ HYPERLINK "mailto:dm Marx@flaherty-hood.org" ]

Re: July 2, 2020 Letter from Roseau, Breckenridge, Moorhead and Warroad (AX-5882)

Dear Mayor Pelowski, City Administrator Smith, City Manager Mahli, and Mayor Marvin:

The U.S. Environmental Protection Agency (EPA) received your letter to the U.S. Department of State (DOS) and the EPA Administrator dated July 2, 2020 conveying concerns regarding the International Joint Commission's recommendation regarding adoption of nutrient water quality objectives and loading targets for the Red River of the North at the U.S.-Canada border. As the federal agency responsible for leading U.S. coordination with the International Joint Commission, the DOS is the lead agency to speak for the U.S. United States in this matter, and EPA coordinates closely with DOS. Because EPA Region 8 represents the EPA on the International Red River Board (IRRB), the Administrator tasked Region 8 to respond to your letter.

Through its participation on the International Red River Board (IRRB) and the IRRB's Water Quality Committee, EPA has consistently expressed support for the nutrient targets and objectives for the Red River (see the attached 2019 letter and minutes from the January 2020 hearing) throughout the development process. The Red River targets and objectives are supported by the current scientific literature on nutrient impacts, as detailed in the March 26, 2020 letter from the Co-chairs of the International Red River Board (IRRB) to the International Joint Commission, the Red River targets and objectives are supported by the current scientific literature on nutrient impacts.

If the recommendations are adopted by the U.S. United States and Canadian governments into the list of water quality objectives and targets for the Red River, the nutrient targets and objectives they would serve as non-binding goals for water quality that could be used to evaluate progress in protecting Lake Winnipeg, as well as to guide voluntary actions on the part of the relevant jurisdictions. The bi-national objectives and targets are not enforceable water quality standards under United States law, the U.S. federal Clean Water Act, and enforceable water quality standards and would not compel any regulatory action. Should the States of Minnesota or North Dakota wish to decide to adopt the nutrient objectives and/or targets into their respective State's water quality standards under the federal Clean Water Act, federal

**Commented [TD1]:** I have never heard anyone refer to the State dept by this acronym. I checked online and it does seem like it is their acronym, but I think in practice everyone says "the State Department" or "State" here in DC.

**Commented [WS2]:** Perhaps change to "supporting" or "of the" – regarding was just said

**Commented [PE3]:** Are the loading targets part of the objectives that would be incorporated into the official Water Quality Objectives for the border? If so, I recommend just saying water quality objectives here.

**Commented [SASR3]:** The loading targets are just that, the objectives are water concentration objectives.

**Commented [PE5]:** I agree with the more streamlined approach. If necessary, we could include the attachments of the testimony and the letter. In our meeting with RS and RD a few weeks ago, I thought we discussed a streamlined approach.

**Commented [SASR5]:** I think this is consistent with the streamlined approach we discussed of leading primarily on our prior record

**Commented [GB7]:** Can we clarify – who would actually adopt these as objectives? Would it be the DC?

**Commented [SASR7]:** It is the two Governments that must agree to adopt – the DC has recommended adoption to the Governments and neither has yet taken action.

**Commented [GB9]:** By whom? The IRRB?

**Commented [SASR9]:** By the IRRB and by the individual jurisdictions and stakeholders in the basin.

regulations (40 C.F.R. 131.20(b) and 40 C.F.R. 25.5) direct that that the s[State(s)] provide for prior public participation, ~~would need be required to comply with requirements outlined in 40 C.F.R. Part 131.20(b) and 40 CFR § 25.5, which would include both including which, among other requirements), necessitate a public comment period and a public hearing. These State law processes would provide ample opportunity for input and review by all stakeholders. Should Minnesota or North Dakota adopt these~~ If the nutrient objectives and/ targets are adopted into their State water quality standards, then the State would submit the standards would undergo review by to EPA for review and approval, which would include an EPA to determination to confirm review of whether such new or revised water quality standards e-if they are scientifically defensible and protective of the designated uses, as required by the Clean Water Act and EPA's water quality standards implementing regulation. After approval Unless and until approved by EPA, the water quality standards would ~~then not~~ be applicable for CWA purposes and would ~~be not~~ the applicable standards for CWA and programs, including for National Pollutant Elimination System (NPDES) permit water quality-based effluent limits, including for National Pollutant Elimination System (NPDES) permit water quality-based effluent limits.

Commented [PE11]: I'm trying to streamline this sentence a bit.

Commented [WS12]: Perhaps sentence could read "which, among other requirements, necessitate (or mandate) a public comment period and a public hearing."

Commented [PD13]: Sentence fragment. Meant to be tied to preceding sentence?

If you would like to discuss this matter further, please reach out to \_\_\_\_\_. We appreciate your interest in water quality in the Red River Basin.

Sincerely,

Gregory Sopkin  
Regional Administrator

Commented [GS14]: Greg will want to confer with the RS RS prior to signing and may want to offer joint signature

#### Attachments

Cc: Laura Lockman, U.S. Department of State  
Chad McIntosh, EPA Office of International and Tribal Affairs  
Kurt Thiede, EPA Region 5